



June 7, 2004

Federal Communications Commission
445 12th Street SW
Washington, DC 20554

PASSENGER
VESSEL
ASSOCIATION

Comment Re: WT Docket No. 00-48; RM-9499; FCC 04-3 (Proposed Rule on Maritime Communications, as published in *Federal Register* of April 6, 2004)

Ladies and Gentlemen:

The Passenger Vessel Association is the national organization representing U.S.-flagged and domestic passenger vessels of all types. PVA represents the interests of owners and operators of dinner cruise vessels, sightseeing and excursion vessels, ferries, private charter vessels, whalewatching operators, windjammers, gaming vessels, amphibious vessels, and overnight cruise ships. The passenger vessel industry carries more than 200 million passengers each year. PVA also counts as members key suppliers to the passenger vessel industry, including marine architects, vessel builders and decorators, insurance companies, publishers, food supply companies, computer software vendors, marine equipment suppliers, engine manufacturers, and others. PVA's members do not include the companies that operate foreign-flagged oceangoing cruise ships that sail from U.S. ports.

PVA currently has more than 500 vessel and associate members. More than 400 vessel members operate approximately 4,200 vessels. These members range from small family businesses with a single boat to companies with several large vessels in different locations to governmental agencies operating ferries. The vast majority of our members' vessels are classified as small passenger vessels and therefore could be affected by your current rulemaking.

The Coast Guard regulates small passenger vessels under two Subchapters of Title 46 *Code of Federal Regulations*. Subchapter K applies to vessels less than 100 gross tons that carry more than 150 passengers or have overnight accommodations for more than 49 persons (See 46 CFR sections 114 *et seq.*). Subchapter T applies to vessels less than 100 gross tons that carry not more than 150 passengers or have overnight accommodations for not more than 49 persons (See 46 CFR section 175 *et seq.*).

801 N. Quincy Street
Suite 200
Arlington,
VA 22203

Phone
(800) 807-8360
(703) 807-0100

Fax:
(703) 807-0103

Email
pva@vesselalliance.com

Website
www.passengervessel.com

The differing regulatory requirements between Subchapter K and T reflect a recognition of relative risks, operating challenges, cost, and the ability to amortize vessel and equipment. This division provides each vessel category with an appropriate and sustainable margin of safety.

Should the FCC require all small passenger vessels to have a reserve power source?

The FCC should *not* require all small passenger vessels to have a reserve power source. The proposed elimination of the tonnage exemption at 47 *Code of Federal Regulations* 80.917 to make the reserve power requirement applicable to all small passenger vessels less than 100 gross tons is too sweeping and will unnecessarily impact large numbers of small vessels including water taxis, vessels in narrow waterways, cable ferries, passenger barges, launches, and a host of small vessels using hand-held and/or portable radios or exempted under 47 CFR 80.933.

As an alternative method of proceeding, the FCC should utilize the Coast Guard's existing regulatory delineations for small passenger vessels and apply the reserve power source requirement only to a subset of, not all, small passenger vessels. The subset should embrace only those small passenger vessels that fall within Subchapter K of Title 46 *Code of Federal Regulations* and those Subchapter T vessels that are required to carry EPRIBS. Coast Guard Navigation and Vessel Inspection Circular 3-99 (Global Maritime Distress and Safety System (GMDSS) and Emergency Position Indicating Radiobeacon (EPIRB) Equipment Requirements for Commercial Vessels) in table three, note 9 identifies this population as "Small passenger vessels operating on the high seas or more than 3 miles from shore on Great Lakes voyages...."

A reserve power source for covered small passenger vessels that consists of local battery power would provide emergency communications in the event of failure of the primary source.

The FCC's April 6, 2004 *Federal Register* narrative noted that one method of establishing a subset of small passenger vessels would be to lower the tonnage threshold rather than eliminating it altogether. PVA's recommendation does not rely on the tonnage threshold, but instead focuses on a vessel's allowable passenger capacity (more than 150 passengers) or its ocean-operation area (those vessels required by the Coast Guard to carry EPIRBs). PVA believes such a subset would direct the reserve power source requirement to those vessels whose safety would be most enhanced by it, while minimizing the requirement's economic impact on those smaller-capacity vessels that operate in more restricted environments.

There is ample justification for exempting most Subchapter T passenger vessels from the reserve power requirement. After all, the Coast Guard itself, by establishing different regimes for T and K vessels, has acknowledged that small passenger vessels should not be lumped together for all regulatory purposes. Subchapter T passenger vessels can range from more than six passengers up to the Subchapter K threshold. Subchapter T vessels are often simpler in construction and outfit than K vessels. A reserve power source on these vessels should be limited to those vessels engaged in service that requires the carriage of EPIRBS.

PVA's recommendation as to those small passenger vessels required to have a reserve power source would have covered the ferry *Port Imperial Manhattan*. The NTSB's recommendation M-02-17 on reserve power sources arose from the Board's investigation of the incident on the *Port Imperial Manhattan* on November 17, 2000.

Should the FCC revise the requirements for digital selective calling (DSC) equipment to comport with international standards?

DSC equipment that comports with international standards should be provided in new installations or when replacement is required for existing installations only for those small passenger vessels currently required to carry EPIRBS. Coast Guard Navigation and Vessel Inspection Circular 3-99 in table three, note 9 identifies this population as "Small passenger vessels operating on the high seas or more than 3 miles from shore on Great Lakes voyages...." In other words, those small passenger vessels not covered by the Coast Guard's EPIRB requirement should be exempt from a requirement to carry DSC equipment upgraded to the new international standards. Over time, as new vessels come on or existing vessels replace/upgrade their DSC, the non-EPIRB-carrying fleet will come up to snuff.

We hope to supplement and elaborate on this comment on DSC equipment by means of a reply comment to be submitted by July 6.

Comments regarding the passenger vessel population and economic impacts

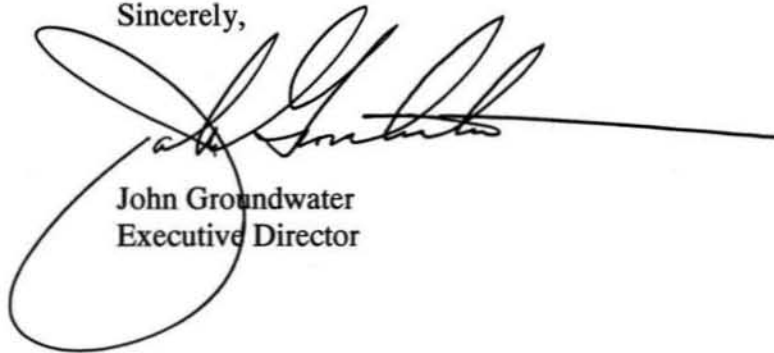
According to *Proceedings of the Marine Safety Council* (the Coast Guard Journal of Safety at Sea – Jan/March 2002, page 3), "the Coast Guard regulates more than 6,000" small passenger vessels that admeasure less than 100 gross tons. A significant but imprecise group of these vessels are crewboats used in the offshore mineral and oil industry. In the spirit the FCC rulemaking most of these small passenger vessels, certainly more than 5,000, could be assumed to be serving the public at large and not dedicated to serving the offshore industry. Further, we believe that the

small passenger vessels serving the public can all be considered as small business under the FCC definition of employing 1,500 or fewer persons. The potential of error, if any, in this assumption is also within the reported spirit of this analysis of financial impact in this rulemaking

We know of no study of the costs of providing a battery reserve power source either as original equipment or as a retrofit. Experience has shown that installation of desirable equipment such as redundant power systems is accomplished more easily in the design stage of new building or rebuilding projects.

We hope to supplement and elaborate on this statistical and economic impact data by means of a reply comment to be submitted by July 6.

Sincerely,

A handwritten signature in black ink, appearing to read "John Groundwater", with a long horizontal line extending to the right. The signature is written over the printed name and title.

John Groundwater
Executive Director